

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1485
93RD GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, May 2, 2006, with recommendation that the Senate Committee Substitute do pass.

4494S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 135.327 and 135.333, RSMo, and to enact in lieu thereof three new sections relating to tax credits for contributions to centers providing social services.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 135.327 and 135.333, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 135.327, 135.333,
3 and 135.630, to read as follows:

135.327. 1. **As used in this section, the following terms shall**
2 **mean:**

3 (1) "CASA", an entity which receives funding from the court
4 appointed special advocate fund established under section 476.777,
5 RSMo;

6 (2) "Child advocacy centers", the regional child assessment
7 centers listed in subsection 2 of section 210.001, RSMo;

8 (3) "Contribution", amount of donation to qualified agency;

9 (4) "Crisis care", temporary care for children whose age ranges
10 from birth through seventeen years of age whose parents or guardian
11 are experiencing an unexpected and unstable or serious condition that
12 requires immediate action resulting in short term care, usually three
13 to five continuous, uninterrupted days, for children who may be at risk
14 for child abuse, neglect, or in an emergency situation;

15 (5) "Department", the department of revenue;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 (6) "Director", the director of the department of revenue;

17 (7) "Qualified agency", CASA, child advocacy centers, or a crisis
18 care center;

19 (8) "Tax liability", the tax due under chapter 143, RSMo, other
20 than taxes withheld under sections 143.191 to 143.265, RSMo.

21 2. Any person residing in this state who legally adopts a special needs
22 child on or after January 1, 1988, and before January 1, 2000, shall be eligible to
23 receive a tax credit of up to ten thousand dollars for nonrecurring adoption
24 expenses for each child adopted that may be applied to taxes due under chapter
25 143, RSMo. Any business entity providing funds to an employee to enable that
26 employee to legally adopt a special needs child shall be eligible to receive a tax
27 credit of up to ten thousand dollars for nonrecurring adoption expenses for each
28 child adopted that may be applied to taxes due under such business entity's state
29 tax liability, except that only one ten thousand dollar credit is available for each
30 special needs child that is adopted.

31 [2.] 3. Any person residing in this state who proceeds in good faith with
32 the adoption of a special needs child on or after January 1, 2000, shall be eligible
33 to receive a tax credit of up to ten thousand dollars for nonrecurring adoption
34 expenses for each child that may be applied to taxes due under chapter 143,
35 RSMo; provided, however, that beginning on or after July 1, 2004, [a minimum
36 of fifty percent] **two million dollars** of the tax credits allowed shall be allocated
37 for the adoption of special needs children who are residents or wards of residents
38 of this state at the time the adoption is initiated. Any business entity providing
39 funds to an employee to enable that employee to proceed in good faith with the
40 adoption of a special needs child shall be eligible to receive a tax credit of up to
41 ten thousand dollars for nonrecurring adoption expenses for each child that may
42 be applied to taxes due under such business entity's state tax liability, except
43 that only one ten thousand dollar credit is available for each special needs child
44 that is adopted.

45 [3.] 4. Individuals and business entities may claim a tax credit for their
46 total nonrecurring adoption expenses in each year that the expenses are incurred.
47 A claim for fifty percent of the credit shall be allowed when the child is placed in
48 the home. A claim for the remaining fifty percent shall be allowed when the
49 adoption is final. The total of these tax credits shall not exceed the maximum
50 limit of ten thousand dollars per child. The cumulative amount of tax credits
51 which may be claimed by taxpayers claiming the credit for nonrecurring adoption

52 expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million
53 dollars [and shall not exceed four million dollars]. **The cumulative amount of**
54 **tax credits that may be claimed by taxpayers claiming the credit for**
55 **nonrecurring adoption expenses shall not be less than four million**
56 **dollars but may be increased by appropriation** in any one fiscal year
57 beginning on or after July 1, 2004; provided, however, that [in the first ninety
58 days] **by December thirty-first** following each July [first], if less than two
59 million dollars in credits have been issued for adoption of special needs children
60 who are not residents or wards of residents of this state at the time the adoption
61 is initiated, the remaining amount of the [four million dollar] cap shall be
62 available for the adoption of special needs children who are residents or wards
63 of residents of this state at the time the adoption is initiated. **For all fiscal**
64 **years beginning on or after July 1, 2006, applications to claim the**
65 **adoption tax credit for special needs children who are residents or**
66 **wards of residents of this state at the time the adoption is initiated**
67 **shall be filed between July first and April fifteenth of each fiscal**
68 **year. For all fiscal years beginning on or after July 1, 2006,**
69 **applications to claim the adoption tax credit for special needs children**
70 **who are not residents or wards of residents of this state at the time the**
71 **adoption is initiated shall be filed between July first and December**
72 **thirty-first of each fiscal year.**

73 [4.] **5.** Notwithstanding any provision of law to the contrary, any
74 individual or business entity may assign, transfer or sell tax credits allowed in
75 this section. Any sale of tax credits claimed pursuant to this section shall be at
76 a discount rate of seventy-five percent or greater of the amount sold.

77 [5.] **6.** The director of revenue shall establish a procedure by which, for
78 each fiscal year, the cumulative amount of tax credits authorized in this section
79 is equally apportioned among all taxpayers within the two categories specified in
80 subsection 2 of this section claiming the credit in that fiscal year. To the
81 maximum extent possible, the director of revenue shall establish the procedure
82 described in this subsection in such a manner as to ensure that taxpayers within
83 each category can claim all the tax credits possible up to the cumulative amount
84 of tax credits available for the fiscal year.

85 [6. The director of revenue shall submit to the general assembly, by
86 January 1, 2005, and each succeeding year, information by income levels of those
87 individual taxpayers who have qualified and claimed the credit authorized in this

88 section, regardless of whether those taxpayers have assigned, transferred, or sold
89 such credits. The information shall indicate the number of such taxpayers with
90 federal adjusted gross income in the immediately preceding tax year of less than
91 one hundred fifty thousand dollars, of one hundred fifty thousand dollars to and
92 including one hundred ninety thousand dollars, and of more than one hundred
93 ninety thousand dollars.]

94 **7. For all tax years beginning on or after January 1, 2006, a tax**
95 **credit may be claimed in an amount equal to up to fifty percent of a**
96 **verified contribution to a qualified agency and shall be named the**
97 **"children in crisis" tax credit. The minimum amount of any tax credit**
98 **issued shall not be less than fifty dollars and shall be applied to taxes**
99 **due under chapter 143, RSMo, excluding sections 143.191 to 143.265,**
100 **RSMo. A contribution verification shall be issued to the taxpayer by**
101 **the agency receiving the contribution. Such contribution verification**
102 **shall include the taxpayer's name, Social Security number, amount of**
103 **tax credit, amount of contribution, the name and address of the agency**
104 **receiving the credit, and the date the contribution was made. The tax**
105 **credit provided under this subsection shall be initially filed in the year**
106 **in which the verified contribution is made.**

107 **8. The cumulative amount of the tax credits redeemed shall not**
108 **exceed the unclaimed portion of the resident adoption category**
109 **allocation as described in this section. The director of revenue shall**
110 **determine the unclaimed portion available. The amount available shall**
111 **be equally divided among the agencies meeting the definition of**
112 **qualified agency to be used towards tax credits issued. In the event tax**
113 **credits claimed under one agency do not total the allocated amount for**
114 **that agency, the unused portion for that agency will be made available**
115 **to the remaining agencies as needed. In the event the total amount of**
116 **tax credits claimed exceeds the amount available, the amount redeemed**
117 **will be apportioned equally to all eligible taxpayers claiming the**
118 **credit. After all children in crisis tax credits have been claimed, any**
119 **remaining unclaimed portion of the reserved allocation for adoptions**
120 **of special needs children who are residents or wards of residents of**
121 **this state shall then be made available for adoption tax credit claims**
122 **of special needs children who are not residents or wards of residents**
123 **of this state at the time the adoption is initiated.**

124 **9. Prior to December thirty-first of each year, the entities listed**

125 under the definition of qualified agency shall apply to the department
126 of social services in order to verify their qualified agency status. Upon
127 a determination that the agency is eligible to be a qualified agency, the
128 department of social services shall provide a letter of eligibility to such
129 agency. No later than February first of each year, the department of
130 social services shall provide a list of qualified agencies to the
131 department of revenue. All tax credit applications to claim the
132 children in crisis tax credit shall be filed between July first and April
133 fifteenth of each fiscal year. A taxpayer shall apply for the children in
134 crisis tax credit by attaching a copy of the contribution verification
135 provided by a qualified agency to such taxpayer's income tax return.

136 10. The tax credits provided under this section shall be subject
137 to the provisions of section 135.333.

138 11. (1) In the event a credit denial, due to lack of available
139 funds, causes a balance due notice to be generated by the department
140 of revenue, or any other redeeming agency, the taxpayer will not be
141 held liable for any penalty or interest, provided the balance is paid, or
142 approved payment arrangements have been made, within sixty days
143 from the notice of denial.

144 (2) In the event the balance is not paid within sixty days from
145 the notice of denial, the remaining balance shall be due and payable
146 under the provisions of chapter 143, RSMo.

147 12. The director shall calculate the level of appropriation
148 necessary to issue all tax credits for non-resident special needs
149 adoptions applied for under this section and provide such calculation
150 to the speaker of the house of representatives, the president pro
151 tempore of the senate, and the director of the office of budget and
152 planning in the office of administration by January thirty-first of each
153 year.

154 13. The department may promulgate such rules or regulations as
155 are necessary to administer the provisions of this section. Any rule or
156 portion of a rule, as that term is defined in section 536.010, RSMo, that
157 is created under the authority delegated in this section shall become
158 effective only if it complies with and is subject to all of the provisions
159 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
160 section and chapter 536, RSMo, are nonseverable and if any of the
161 powers vested with the general assembly pursuant to chapter 536,

162 RSMo, to review, to delay the effective date, or to disapprove and annul
163 a rule are subsequently held unconstitutional, then the grant of
164 rulemaking authority and any rule proposed or adopted after August
165 28, 2006, shall be invalid and void.

166 14. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

167 (1) The provisions of the new program authorized under
168 subsections 7 to 12 of this section shall automatically sunset six years
169 after the effective date of this section unless reauthorized by an act of
170 the general assembly; and

171 (2) If such program is reauthorized, the program authorized
172 under this section shall automatically sunset twelve years after the
173 effective date of the reauthorization of this section; and

174 (3) This section shall terminate on September first of the
175 calendar year immediately following the calendar year in which the
176 program authorized under this section is sunset.

135.333. 1. Any amount of tax credit which exceeds the tax due **or which**
2 **is applied for and otherwise eligible for issuance but not issued** shall not
3 be refunded but may be carried over to any subsequent taxable year, not to
4 exceed a total of five years for which a tax credit may be taken for each child
5 adopted.

6 2. Tax credits that are assigned, transferred or sold as allowed in section
7 135.327 may be assigned, transferred or sold in their entirety notwithstanding
8 the taxpayer's tax due.

135.630. 1. As used in this section, the following terms mean:

2 (1) "Contribution", a donation of cash, stock, bonds, or other
3 marketable securities, or real property;

4 (2) "Director", the director of the department of social services;

5 (3) "Pregnancy resource center", a nonresidential facility located
6 in this state:

7 (a) Established and operating primarily to provide assistance to
8 women with crisis pregnancies or unplanned pregnancies by offering
9 pregnancy testing, counseling, emotional and material support, and
10 other similar services to encourage and assist such women in carrying
11 their pregnancies to term; and

12 (b) Where childbirths are not performed; and

13 (c) Which does not perform, induce, or refer for abortions and
14 which does not hold itself out as performing, inducing, or referring for

15 abortions; and

16 (d) Which provides direct client services at the facility, as
17 opposed to merely providing counseling or referral services by
18 telephone; and

19 (e) Which provides its services at no cost to its clients; and

20 (f) When providing medical services, such medical services must
21 be performed in accordance with Missouri statute; and

22 (g) Which is exempt from income taxation pursuant to the
23 Internal Revenue Code of 1986, as amended;

24 (4) "State tax liability", in the case of a business taxpayer, any
25 liability incurred by such taxpayer pursuant to the provisions of
26 chapters 143, 147, 148, and 153, RSMo, excluding sections 143.191 to
27 143.265, RSMo, and related provisions, and in the case of an individual
28 taxpayer, any liability incurred by such taxpayer pursuant to the
29 provisions of chapter 143, RSMo, excluding sections 143.191 to 143.265,
30 RSMo, and related provisions;

31 (5) "Taxpayer", a person, firm, a partner in a firm, corporation,
32 or a shareholder in an S corporation doing business in the state of
33 Missouri and subject to the state income tax imposed by the provisions
34 of chapter 143, RSMo, or a corporation subject to the annual
35 corporation franchise tax imposed by the provisions of chapter 147,
36 RSMo, or an insurance company paying an annual tax on its gross
37 premium receipts in this state, or other financial institution paying
38 taxes to the state of Missouri or any political subdivision of this state
39 pursuant to the provisions of chapter 148, RSMo, or an express
40 company which pays an annual tax on its gross receipts in this state
41 pursuant to chapter 153, RSMo, or an individual subject to the state
42 income tax imposed by the provisions of chapter 143, RSMo.

43 2. For all tax years beginning on or after January 1, 2007, a
44 taxpayer shall be allowed to claim a tax credit against the taxpayer's
45 state tax liability, in an amount equal to fifty percent of the amount
46 such taxpayer contributed to a pregnancy resource center.

47 3. The amount of the tax credit claimed shall not exceed the
48 amount of the taxpayer's state tax liability for the taxable year for
49 which the credit is claimed, and such taxpayer shall not be allowed to
50 claim a tax credit in excess of fifty thousand dollars per taxable
51 year. However, any tax credit that cannot be claimed in the taxable

52 year the contribution was made may be carried over to the next four
53 succeeding taxable years until the full credit has been claimed.

54 4. Except for any excess credit which is carried over pursuant to
55 subsection 3 of this section, a taxpayer shall not be allowed to claim a
56 tax credit unless the total amount of such taxpayer's contribution or
57 contributions to a pregnancy resource center or centers in such
58 taxpayer's taxable year has a value of at least one hundred dollars.

59 5. The director shall determine, at least annually, which facilities
60 in this state may be classified as pregnancy resource centers. The
61 director may require of a facility seeking to be classified as a
62 pregnancy resource center whatever information which is reasonably
63 necessary to make such a determination. The director shall classify a
64 facility as a pregnancy resource center if such facility meets the
65 definition set forth in subsection 1 of this section.

66 6. The director shall establish a procedure by which a taxpayer
67 can determine if a facility has been classified as a pregnancy resource
68 center. Pregnancy resource centers shall be permitted to decline a
69 contribution from a taxpayer. The cumulative amount of tax credits
70 which may be claimed by all the taxpayers contributing to pregnancy
71 resource centers in any one fiscal year shall not exceed two million
72 dollars. Tax credits shall be issued in the order contributions are
73 received.

74 7. The director shall establish a procedure by which, from the
75 beginning of the fiscal year until some point in time later in the fiscal
76 year to be determined by the director, the cumulative amount of tax
77 credits are equally apportioned among all facilities classified as
78 pregnancy resource centers. If a pregnancy resource center fails to use
79 all, or some percentage to be determined by the director, of its
80 apportioned tax credits during this predetermined period of time, the
81 director may reapportion these unused tax credits to those pregnancy
82 resource centers that have used all, or some percentage to be
83 determined by the director, of their apportioned tax credits during this
84 predetermined period of time. The director may establish more than
85 one period of time and reapportion more than once during each fiscal
86 year. To the maximum extent possible, the director shall establish the
87 procedure described in this subsection in such a manner as to ensure
88 that taxpayers can claim all the tax credits possible up to the

89 cumulative amount of tax credits available for the fiscal year.

90 8. Each pregnancy resource center shall provide information to
91 the director concerning the identity of each taxpayer making a
92 contribution to the pregnancy resource center who is claiming a tax
93 credit pursuant to this section and the amount of the contribution. The
94 director shall provide the information to the director of revenue. The
95 director shall be subject to the confidentiality and penalty provisions
96 of section 32.057, RSMo, relating to the disclosure of tax information.

97 9. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

98 (1) Any new program authorized under this section shall
99 automatically sunset six years after the effective date of this section,
100 unless reauthorized by an act of the general assembly; and

101 (2) If such program is reauthorized, the program authorized
102 under this section shall automatically sunset twelve years after the
103 effective date of the reauthorization of this section; and

104 (3) This section shall terminate on September first of the
105 calendar year immediately following the calendar year in which a
106 program authorized under this section is sunset.

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